

# UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America	)	
v.	)	
PAUL WESLEY GAITHER, JR.	)	Case No: <u>5:05CR33</u>
	)	USM No: <u>21623-058</u>
Date of Previous Judgment: <u>June 20, 2006</u>	)	<u>Denzil Forrester</u>
(Use Date of Last Amended Judgment if Applicable)	)	Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

**IT IS ORDERED** that the motion is:

☒ **DENIED.** ☐ **GRANTED** and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_.

### I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>25</u>	Amended Offense Level: <u>23</u>
Criminal History Category: <u>VI</u>	Criminal History Category: <u>VI</u>
Previous Guideline Range: <u>120</u> to <u>137</u> months	Amended Guideline Range: <u>120</u> to <u>120</u> months

### II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ **Other (explain):** No reduction as the guideline range remains unchanged due to the mandatory statutory minimum sentence. *See* USSG §5G1.1. While a Motion for Downward Departure pursuant to USSG §5K1.1 and 18 U.S.C. §3553(e) was granted (re: Count Two), the Notice of Government's Intent to Seek Enhanced Penalty under 21 U.S.C. §851 was not withdrawn. The Section 851 Notice had the effect of increasing the statutory mandatory minimum sentence to a term of ten years to LIFE.

### III. ADDITIONAL COMMENTS

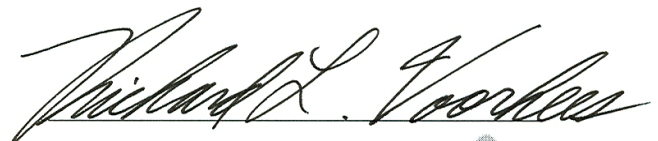
**\*\*The defendant is also serving a consecutive sentence in Count Three for a conviction under 18 U.S.C. § 924(c).**

Except as provided above, all provisions of the judgment dated June 20, 2006, shall remain in effect.

**IT IS SO ORDERED.**

Order Date: February 7, 2011

Effective Date: February 7, 2011  
(if different from order date)

  
Richard L. Voorhees  
United States District Judge

